

AMENDED IN SENATE AUGUST 18, 1998

AMENDED IN SENATE JULY 17, 1997

AMENDED IN SENATE JUNE 30, 1997

AMENDED IN ASSEMBLY APRIL 15, 1997

AMENDED IN ASSEMBLY MARCH 31, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 7

Introduced by Assembly Member Brown
(Principal coauthor: Assembly Member Figueroa)
(Coauthors: Assembly Members Alquist, Aroner, Cardoza,
Ducheny, Gallegos, Havice, Keeley, Kuehl, Lempert,
Napolitano, Perata, Washington, and Wayne)
(Coauthor: Senator Watson)

December 2, 1996

An act to add Section ~~1367.63~~ 1367.635 to the Health and Safety Code, and to add Section 10123.86 to the Insurance Code, relating to health coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 7, as amended, Brown. Health coverage: breast cancer.

Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Under existing law, willful violation of any of these provisions is a crime. Existing law also provides for the

regulation of policies of disability insurance administered by the Insurance Commissioner.

Existing law requires that health care service plans and disability insurers provide coverage for certain benefits and services.

This bill would require every health care service plan contract and every policy of disability insurance that is issued, amended, renewed, or delivered on and after January 1, ~~1998~~ 1999, that provides coverage for mastectomies and lymph node dissections, to allow the length of a hospital stay associated with these procedures to be determined by the attending physician and surgeon in consultation with the patient and consistent with ~~good medical and current clinical research~~ *sound clinical principles and processes*, to cover prosthetic devices or reconstructive surgery, and to cover all complications from a mastectomy. The bill would enact other related provisions. Since a willful violation of the provisions applicable to health care service plans is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited
- 2 as the Breast Cancer Patient Protection Act of ~~1997~~ 1998.
- 3 SEC. 2. Section ~~1367.63~~ 1367.635 is added to the
- 4 Health and Safety Code, to read:
- 5 ~~1367.63.—~~
- 6 1367.635. (a) Every health care service plan contract
- 7 that is issued, amended, renewed, or delivered on or after
- 8 January 1, ~~1998~~ 1999, that provides coverage for surgical
- 9 procedures known as mastectomies and lymph node
- 10 dissections, shall do all of the following:

1 (1) Allow the length of a hospital stay associated with
2 those procedures to be determined by the attending
3 physician and surgeon in consultation with the patient,
4 ~~consistent with good medical practice and current~~
5 ~~clinical research.~~ *consistent with sound clinical principles*
6 *and processes. No health care service plan shall require*
7 *a treating physician and surgeon to receive prior*
8 *approval from the plan in determining the length of*
9 *hospital stay following those procedures.*

10 (2) Cover prosthetic devices or reconstructive
11 surgery, including devices or surgery to restore and
12 achieve symmetry for the patient incident to the
13 mastectomy. Coverage for prosthetic devices and
14 reconstructive surgery shall be subject to the deductible
15 and coinsurance conditions applicable to other benefits.

16 (3) Cover all complications from a mastectomy,
17 including lymphedema.

18 (b) As used in this section, all of the following
19 definitions apply:

20 (1) "Coverage for prosthetic devices or reconstructive
21 surgery" means any initial and subsequent reconstructive
22 surgeries or prosthetic devices, and followup care
23 deemed necessary by the attending physician and
24 surgeon.

25 (2) "Prosthetic devices" means and includes the
26 provision of initial and subsequent prosthetic devices
27 pursuant to an order of the patient's physician and
28 surgeon.

29 (3) "*Mastectomy*" shall have the same meaning as in
30 *Section 1367.6.*

31 (4) "To restore and achieve symmetry" means that, in
32 addition to coverage of prosthetic devices and
33 reconstructive surgery for the diseased breast on which
34 the mastectomy was performed, prosthetic devices and
35 reconstructive surgery for a healthy breast is also covered
36 if, in the opinion of the attending physician and surgeon,
37 this surgery is necessary to achieve normal symmetrical
38 appearance.

39 (c) *No individual, other than a licensed physician and*
40 *surgeon competent to evaluate the specific clinical issues*

1 *involved in the care requested, may deny requests for*
2 *authorization of health care services pursuant to this*
3 *section.*

4 (d) No health care service plan shall do any of the
5 following in providing the coverage described in
6 subdivision (a):

7 ~~(1) Require a treating physician and surgeon to seek~~
8 ~~permission from the plan prior to ordering a service in~~
9 ~~connection with that coverage.~~

10 ~~(2)–~~

11 (1) Reduce or limit the reimbursement of the
12 attending provider for providing care to an individual
13 enrollee or subscriber in accordance with the coverage
14 requirements.

15 ~~(3)–~~

16 (2) Provide monetary or other incentives to an
17 attending provider to induce the provider to provide care
18 to an individual enrollee or subscriber in a manner
19 inconsistent with the coverage requirements.

20 ~~(4) Deny an individual enrollee or subscriber~~
21 ~~eligibility, or continued eligibility, to enroll or to renew~~
22 ~~coverage, in order to avoid the coverage requirements.~~

23 ~~(5)–~~

24 (3) Provide monetary payments or rebates to an
25 individual enrollee or subscriber to encourage
26 acceptance of less than the coverage requirements.

27 ~~(d) Every~~

28 (e) *On or after July 1, 1999, every* health care service
29 plan shall include notice of the coverage required by this
30 section in the plan's evidence of coverage.

31 ~~(e)–~~

32 (f) Nothing in this section shall be construed to limit
33 retrospective utilization review and quality assurance
34 activities by the plan.

35 SEC. 3. Section 10123.86 is added to the Insurance
36 Code, to read:

37 10123.86. (a) Every policy of disability insurance
38 covering hospital, surgical, or medical expenses that is
39 issued, amended, renewed, or delivered on or after
40 January 1, ~~1998~~ 1999, that provides coverage for surgical

1 procedures known as mastectomies and lymph node
2 dissections, shall do all of the following:

3 (1) Allow the length of a hospital stay associated with
4 those procedures to be determined by the attending
5 physician and surgeon in consultation with the patient,
6 ~~consistent with good medical practice and current~~
7 ~~clinical research.~~ *consistent with sound clinical principles*
8 *and processes. No disability insurer shall require a*
9 *treating physician and surgeon to receive prior approval*
10 *in determining the length of hospital stay following those*
11 *procedures.*

12 (2) Cover prosthetic devices or reconstructive
13 surgery, including devices or surgery to restore and
14 achieve symmetry for the patient incident to the
15 mastectomy. Coverage for prosthetic devices and
16 reconstructive surgery shall be subject to the deductible
17 and coinsurance conditions applicable to other benefits.

18 (3) Cover all complications from a mastectomy,
19 including lymphedema.

20 (b) As used in this section, all of the following
21 definitions apply:

22 (1) "Coverage for prosthetic devices or reconstructive
23 surgery" means any initial and subsequent reconstructive
24 surgeries or prosthetic devices, and followup care
25 deemed necessary by the attending physician and
26 surgeon.

27 (2) "Prosthetic devices" means and includes the
28 provision of initial and subsequent prosthetic devices
29 pursuant to an order of the patient's physician and
30 surgeon.

31 (3) "*Mastectomy*" shall have the same meaning as in
32 *Section 10123.8.*

33 (4) "To restore and achieve symmetry" means that, in
34 addition to coverage of prosthetic devices and
35 reconstructive surgery for the diseased breast on which
36 the mastectomy was performed, prosthetic devices and
37 reconstructive surgery for a healthy breast is also covered
38 if, in the opinion of the attending physician and surgeon,
39 this surgery is necessary to achieve normal symmetrical
40 appearance.

1 (c) *No individual, other than a licensed physician and*
2 *surgeon competent to evaluate the specific clinical issues*
3 *involved in the care requested, may deny requests for*
4 *authorization of health care services pursuant to this*
5 *section.*

6 (d) No insurer shall do any of the following in
7 providing the coverage described in subdivision (a):

8 ~~(1) Require a treating physician and surgeon to seek~~
9 ~~permission from the insurer prior to ordering a service in~~
10 ~~connection with that coverage.~~

11 ~~(2)–~~

12 (1) Reduce or limit the reimbursement of the
13 attending provider for providing care to an insured in
14 accordance with the coverage requirements.

15 ~~(3)–~~

16 (2) Provide monetary or other incentives to an
17 attending provider to induce the provider to provide care
18 to an insured in a manner inconsistent with the coverage
19 requirements.

20 ~~(4) Deny an applicant or insured coverage or renewal~~
21 ~~of coverage, in order to avoid the coverage requirements.~~

22 ~~(5)–~~

23 (3) Provide monetary payments or rebates to an
24 insured to encourage acceptance of less than the
25 coverage requirements.

26 ~~(d) Every~~

27 (e) *On or after July 1, 1999, every* insurer shall include
28 notice of the coverage required by this section in the
29 insurer's evidence of coverage or certificate of insurance.

30 ~~(e)–~~

31 (f) Nothing in this section shall be construed to limit
32 retrospective utilization review and quality assurance
33 activities by the insurer.

34 (g) *This section shall only apply to health benefit*
35 *plans, as defined in subdivision (a) of Section 10198.6,*
36 *except that for accident only, specified disease, or hospital*
37 *indemnity insurance, coverage for benefits under this*
38 *section shall apply to the extent that the benefits are*
39 *covered under the general terms and conditions that*
40 *apply to all other benefits under the policy. Nothing in*

1 *this section shall be construed as imposing a new benefit*
2 *mandate on accident only, specified disease, or hospital*
3 *indemnity insurance.*

4 SEC. 4. No reimbursement is required by this act
5 pursuant to Section 6 of Article XIII B of the California
6 Constitution because the only costs that may be incurred
7 by a local agency or school district will be incurred
8 because this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition
12 of a crime within the meaning of Section 6 of Article
13 XIII B of the California Constitution.

14 Notwithstanding Section 17580 of the Government
15 Code, unless otherwise specified, the provisions of this act
16 shall become operative on the same date that the act
17 takes effect pursuant to the California Constitution.

